

COMMENTS
F1 – U.S. EPA
Page 1 of 2

RESPONSES



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3801

RECEIVED
Bureau of Land Management
07:30

JAN 22 2003
January 13, 2003
LAS VEGAS
FIELD OFFICE
Las Vegas, Nevada

Jerrold E. Crockford, Project Manager
Las Vegas Field Office
U.S. Bureau of Land Management
4765 W. Vegas Drive
Las Vegas, NV 89108

Dear Mr. Crockford:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the **IVANPAH ENERGY CENTER PROJECT, Clark County, Nevada** (CEQ #020473, #D-BLM-K09808-NV). EPA's review is conducted under the National Environmental Policy Act, the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The Bureau of Land Management (BLM) proposes to issue right-of-way grants to construct and operate a 500-megawatt gas-turbine combined-cycle power plant in the Ivanpah Valley, approximately 20 miles south of Las Vegas. Except for a related transmission line, the proposed generating facility and most ancillary facilities are located on 30 acres of public land administered by the BLM approximately 2.5 miles southeast of Goodsprings. Power would be sold to markets in Nevada, California, and Arizona. The facility would use a refrigerated air system to reduce cooling water requirements normally associated with combined-cycle facilities. Power generated by Ivanpah would enter the southern Nevada power grid through the Mead Substation. The proposed action includes various ancillary facilities: a 12-inch diameter gas pipeline interconnection to the adjacent Kern River Gas Transmission gas pipeline; a four-inch diameter water pipeline originating from the Southern Nevada Correctional Center (SNCC) to supply water processed through a planned water treatment facility for air emissions control; a telecommunications line; a 230 kilovolt (kV) substation; 230 kV transmission lines; and fiber optic lines.

Two other action alternatives are fully evaluated. An alternative plant site (in Primm) would be co-located with the Reliant Bighorn Power Plant on a 30-acre parcel on private property. Ancillary facilities for the alternative plant site are a 10- to 11-mile long water supply pipeline from the SNCC to the power plant; a 40-mile long transmission line to interconnect the plant to the Mead Substation; approximately 30 miles of transmission lines to interconnect the facility to the proposed Table Mountain Substation and the Pahrump-Mead transmission line; a 3.2 mile natural gas pipeline connecting to Kern River Gas Transmission Company natural gas pipeline; use of existing access roads; and telecommunications facilities. Under the No Action Alternative, BLM would not issue right-of-way grants for Ivanpah and ancillary facilities, and the project as proposed would not be built.

Printed on Recycled Paper

COMMENTS
F1 – U.S. EPA
Page 2 of 2

RESPONSES

F1.1

Based upon EPA's review, we rate the DEIS and Proposed Action as LO, *Lack of Objections*. We have one comment to offer regarding the proposed project. Table 5-3 (Procedures Incorporated into the Proposed Ivanpah Energy Center Project to Reduce Impacts) states, "Hazardous materials will not be drained into the ground or into arroyos or drainages." Since Federal law and State law generally prohibit the intentional discharge or release of hazardous materials into the ground, arroyos, or drainages, we believe that this should not be presented as a mitigation measure. Accordingly, EPA recommends that this be removed from the Final EIS (FEIS).

We appreciate the opportunity to comment on the DEIS. Please send one copy of the FEIS to this office (mailcode: CMD-2) when it is filed with EPA's Washington, D.C. office. If you have any questions, please contact my staff reviewer for this project, David Tomsovic, at 415-973-3858 or <dTomsovic.david@epa.gov>.

Sincerely,



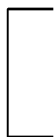
for Lisa B. Hanf, Manager
Federal Activities Office

F1.1 See Errata Sheet Section 5.

COMMENTS
F2 – U.S. Fish and Wildlife
Page 1 of 5

RESPONSES

F2.1



F2.1 Comment acknowledged regarding preference for the No Action Alternative.

COMMENTS
F2 – U.S. Fish and Wildlife
Page 2 of 5

RESPONSES

Project Manager

File No. BLM 8-5-2

However, if an Action alternative is selected, it should be the alternative with the least amount of significant or adverse impacts to federally listed species, particularly to the threatened desert tortoise. Additionally, we recommend the following issues be addressed if an Action alternative is selected:

F2.2

1. Despite cooperative efforts since the 1970s, avian mortality due to electrocution on power lines (especially for raptors) continues to be a problem throughout North America. Measures were developed and continue to be revised to deter the attraction raptors have to perch and nest on power line structures. Any structures associated with the proposed project should be designed in accordance with developed practices to protect avian species from harm. Our agency participated in the effort and refer you to the following document: Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996 by the Avian Power Line Interaction Committee in 1996, and published by the Edison Electric Institute and the Raptor Research Foundation in Washington, D.C. Additionally, we recommend implementation of surveys and monitoring of avian mortality along power lines and in the vicinity of other proposed project structures with the potential to cause avian mortality. Avian mortality surveys should be conducted periodically throughout the calendar year and should be continued over the length of the project (until decommissioning) unless surveys in the initial years of operation show no project-caused mortality. We encourage the coordination of surveys with the Nevada Division of Wildlife (NDOW).

F2.3

2. In the arid climate of southern Nevada, a variety of migratory birds commonly use riparian and/or wash areas to forage and nest. Depending on the species, birds may nest in wetland or riparian vegetation or construct nests on bare ground. Land clearing (or other surface disturbance) should be timed to avoid potential destruction of active bird nests or young birds that breed in the project area. As discussed in the DEIS, such destruction may be in violation of the MBTA. Under the MBTA, active nests (nests with eggs or young) of migratory birds may not be harmed, nor may migratory birds be killed. Therefore, we recommend that land clearing be conducted outside the avian breeding season. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If active nests are located, or if other evidence of nesting (mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

F2.4

3. Information provided in the DEIS identifies the Goodsprings site would cross an important area for desert bighorn sheep (*Ovis canadensis nelsoni*) in the McCullough

2

F2.2

Single- and double-circuit structures will use davit arms with conductor suspended from insulators. The conductors will be separated from each other and davit arms with sufficient conductor-to-conductor and conductor-to-ground clearance to preclude electrocution of large avian species. As stated in the DEIS, "...impacts related to electrocution are not anticipated." The comment regarding periodic surveys to monitor avian mortality is noted and, may be included as part of the project stipulations and in the Construction, Operation, and Maintenance Plan (COM Plan).

F2.3

Migratory birds and measures that can be taken to avoid or minimize impacts to avian populations are addressed on pages 4-25 and 5-28. Impacts to migratory birds can be avoided or reduced by scheduling land clearing activities during periods that would avoid the nesting season. If land clearing and/or construction activities cannot be scheduled to avoid the nesting season, active nests should be identified by a qualified biologist and avoided to prevent destruction or disturbance of nests until they are no longer active. The identification and avoidance of active nests should be included in project stipulations and the project COM Plan.

F2.4

The Ivanpah-Mead Transmission Line would cross the McCullough Range within McCullough Pass, regardless of plant site location. Nevada Department of Wildlife, the Fraternity of Desert Bighorn, and

COMMENTS
F2 – U.S. Fish and Wildlife
Page 3 of 5

RESPONSES

	Project Manager	File No. BLM 8-5-2
F2.4 Cont'd.	Pass. If this alternative is implemented, we recommend coordinating with NDOW in studies of desert bighorn sheep behavior in response to the alternative, studies of potential sheep displacement, and long-term monitoring of overall habitat use in the proposed project and surrounding areas.	
F2.5	4. The overall effects to vegetation would be significant under either Action alternative. At the Goodsprings site, temporary disturbance of 294.4 acres and the permanent disturbance of 41.6 acres would occur, for a total of 336 acres of disturbance under this alternative. At the Primm site, temporary disturbance of 317.7 acres and the permanent disturbance of 8.8 acres would occur, for a total of 326.5 acres of disturbance under this alternative. Therefore, we recommend that measures be included in the design of either action alternative to <u>avoid</u> and <u>reduce</u> the total area of disturbance. In the absence of significant disturbance, many Mojave desert plant communities persist as temporally stable, late-successional communities. Following disturbance, a return to historic climax conditions may take from 20 to 100 years. The DEIS states that areas temporarily disturbed would be restored in accordance with the Bureau of Land Management's (BLM) approved restoration plan with successful restoration reached when 60 percent or more of the area is revegetated. We agree that restoration would be necessary to facilitate the regeneration process and an appropriate monitoring program as part of that restoration plan should be established.	
F2.6	5. Disturbance in Mojave desert plant communities creates conditions advantageous for the establishment and spread of many invasive weed species. Land management agencies such as BLM, as well as other land owners, are responsible for controlling noxious weeds on their lands as per Nevada State Law (NRS 555.202) and Federal Executive Order (EO) 13112. Basic weed monitoring and treatment measures should be implemented. A 10-year period of monitoring and treatment should occur as control of many weeds may take more than 5 years. Because invasive weeds are increasing in number and frequency in southern Nevada, we recommend measures be included in the proposed project to <u>reduce</u> the total area of disturbance in the proposed project area.	
F2.7	6. We recommend the inclusion of efforts to protect and minimize disturbance to cacti and yucca plants as part of the proposed project. These plants are ecologically important and are protected by Nevada State Law (NRS 527.060-.120). We concur with the measures in the DEIS to salvage and transplant any plants that are not able to be protected as part of the overall restoration plan.	
F2.8	7. Efforts should be implemented to avoid or minimize impacts throughout the project area to existing populations of twotoned beardtongue (<i>Penstemon bicolor</i>), a plant species of	

3

other organizations routinely monitor sheep herds within the area and implement measures to support herd success. Additional monitoring that would be related to the Ivanpah Energy Center is not warranted at this time.

F2.5 Temporary and permanent impacts related to the loss of habitat is referenced in numerous locations throughout the DEIS. The potential loss of habitat has been minimized, to the extent practicable by the use of existing roads and trails, co-location of the water supply pipeline and transmission line, and other factors. Restoration will be addressed as part of BLM's stipulations and in the project COM Plan.

F2.6 The potential introduction and control of noxious weeds is addressed in DEIS on pages 4-20, 4-21, 4-22, 5-42, 5-43, and 5-131. Mitigation measures that could be taken to minimize the presence of noxious weeds are itemized in text and include use of weed free seeds, high-pressure washing of equipment, use of weed free gravel/fill, and prompt revegetation of disturbed areas. Post construction monitoring and control of noxious weeds would be included in the project stipulations and the COM Plan.

F2.7 The DEIS (page 5-26) states that "Restoration plans would likely include salvaging and replanting of all barrel, cottontop, and hedgehog cactus that would be impacted during construction." The document also states that "Yucca ... and other cacti ... that are over one-foot tall that would be impacted also would be salvaged and replanted." Protocol for salvaging and replanting will be addressed in the project COM Plan and project stipulations.

COMMENTS
F2 – U.S. Fish and Wildlife
Page 4 of 5

RESPONSES

Project Manager

File No. BLM 8-5-2

F2.8
Cont'd.

concern. If twotoned beardtongue plants cannot be avoided, then restoration efforts should include collection of seeds from known populations prior to disturbance. These seeds could then be used for revegetation in the species known localities. Palmers penstemon (*Penstemon palmeri*), a more common congener, is known to hybridize with twotoned beardtongue. Palmers penstemon is impossible to distinguish vegetatively from twotoned beardtongue. Therefore, seeds of twotoned beardtongue should not be collected from plants exhibiting intermediate characteristics. We recommend that known individuals of twotoned beardtongue be marked during the flowering season for ensuing collection. We do not recommend the use of Palmers penstemon in revegetation efforts.

F2.9

8. Prior to land clearing activities, qualified botanists should flag areas containing sensitive plant species and these areas should be avoided, where possible. Sensitive plants are typically located on limestone ridges and desert washes. Changes to water flow regimes in up-wash areas may impact plant communities down-wash for many miles.

F2.10

9. Efforts should be made to avoid or minimize construction and disturbance (even temporary) in desert washes, which are important areas to a variety of wildlife and plant resources.

F2.11

10. As presently designed, the action alternatives could have moderate to significant impacts to numerous Species of Concern (as listed in our species list letter dated June 27, 2002, to Parsons Engineering Science, Inc.). Measures should be taken to avoid or minimize impacts to these Species of Concern and their habitat.

F2.12

11. Based on the information provided in the DEIS, the action alternatives are located within the range of the threatened desert tortoise (*Gopherus agassizii*) and could have significant impacts to this species and its habitat. Additionally, portions of the proposed transmission line for the alternatives, traverses designated critical habitat for the desert tortoise. Every effort should be made to avoid or significantly minimize impacts to the desert tortoise and its critical habitat. If an Action alternative is selected, it should be the alternative with the least amount of significant or adverse impacts to the threatened desert tortoise. If an Action alternative is proposed to be implemented over the No Action alternative, the BLM should pursue formal consultation under section 7 of the Act. At that time, issues regarding the proposed alternative and its significant impact to the desert tortoise and its critical habitat would be addressed.

F2.13

12. If selected, the Goodsprings site would also impact the Large Scale Translocation Site (LSTS) for the desert tortoise. This translocation effort is being conducted in accordance with special conditions in the 30-year section 10(a)(1)(B) permit issued to Clark County by the Service in association with the Multiple Species Habitat Conservation Plan. The

F2.8 BLM acknowledges that collection of *Penstemon palmeri* seeds should be avoided and that (as stated in the DEIS, pages 5-33, 5-35, and 5-38) seeds from *P. bicolor bicolor* and *P. albomarginatus* should be collected for reseeded. The methodology used to collect the desired seed should be addressed in BLM stipulations and the project COM Plan.

F2.9 Flagging of sensitive plant species would be addressed as part of BLM's stipulations and the project COM Plan.

F2.10 Construction within desert washes will be avoided to the extent practicable. Such avoidance is most likely to be associated with minor adjustments to transmission line structure locations which would be made as part of detailed engineering and constructability reviews. Most desert washes would be spanned by the transmission lines and existing roads would be used to minimize potential impacts associated with site access.

F2.11 The DEIS addresses species of concern and, to the extent practicable, provides mitigation measures that can be implemented to avoid or reduce the severity of impacts. Known locations of species of concern (i.e., *Penstemon bicolor bicolor* and *P. albomarginatus*) have been identified on maps. A qualified biologist will monitor construction activities and if such species are present at additional locations, their locations will be noted and avoided.

RESPONSES

F2.12 Impacts to the desert tortoise were considered to be significant for those areas classified as Category B (moderately high) habitat density. Field investigations that were carried out for the project confirm that those areas are west of Interstate 15; areas of lesser density (Category C) were east of I-15 and impacts were considered to less than significant. Construction of the Ivanpah Energy Center at the Goodsprings Plant Site would result in greater loss of Category B habitat than would result from construction of the facility at the Primm Plant Site. A biological assessment has been prepared and formal Section 7 Consultation is ongoing with the U.S. Fish and Wildlife to address the contingency that the Goodsprings Plant Site could be selected.

F2.13 The presence and importance of the Large Scale Translocation Site (otherwise referred to as the “Desert Tortoise Translocation Area”) is shown and is discussed in several locations in the DEIS. Impacts to the Translocation Area have been minimized to the extent possible. For example, the Goodsprings Plant Site, main access road, and telecommunications line are north of the Translocation Area and transmission and water supply corridors to the site are routed to minimize activity within the area. Stipulations that are applicable to Category B desert tortoise habitat density will be applied to all project construction and operations that are west of I-15, including those within the Translocation Area.

COMMENTS
F2 – U.S. Fish and Wildlife
Page 5 of 5

RESPONSES

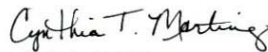
Project Manager

File No. BLM 8-5-2

LSTS is highly important to the ongoing scientific research and recovery efforts for desert tortoise. We are very concerned about any irreparable damage that may occur to the LSTS as a result of implementing the Goodsprings alternative.

Again, we reiterate our concurrence with the conclusion reached in the DEIS that implementation of the Proposed Action or alternatives would result in significant impacts to biological resources; therefore, we believe the No Action Alternative is in the best interest of the fish, wildlife and plant resources our agency is entrusted with protecting.

If you have any questions regarding these comments, please contact Amy LaVoie in our Southern Nevada Field Office at (702) 515-5230.


for Robert D. Williams

cc:
Supervisory Biologist, Habitat, Nevada Division of Wildlife, Las Vegas, Nevada
Biologist, Habitat, Nevada Division of Wildlife, Reno, Nevada (Attn: Roddy Shepard)

COMMENTS

RESPONSES

S – State of Nevada
Page 1 of 4



COMMENTS

RESPONSES

S1 – State of Nevada Historic Preservation
Page 2 of 4

NEVADA STATE CLEARINGHOUSE
Department of Administration
Budget and Planning Division
209 East Musser Street., Room 200
Carson City, Nevada 89701-4298
(775) 684-0209
Fax (775) 684-0260

NOV 20 2002
State Historic Preservation Office

DATE: November 19, 2002

Governor's Office	Legislative Counsel Bureau	Conservation-Natural Resources
Agency for Nuclear Projects	Information Technology	Director's Office
Energy	Emp. Training & Rehab Research Div.	State Lands
Agriculture	PUC	Environmental Protection
Business & Industry	Transportation	Forestry
Minerals	UNR Bureau of Mines	Wildlife
Economic Development	UNR Library	Region 1
Tourism	UNLV Library	Region 2
Fire Marshal	Historic Preservation	Region 3
Human Resources	Emergency Management	Conservation Districts
Aging Services	Office of the Attorney General	State Parks
Health Division	Washington Office	Water Resources
Indian Commission	Nevada Assoc. of Counties	Natural Heritage
Colorado River Commission	Nevada League of Cities	Wild Horse Commission

Nevada SAI # E2003-051
Project: DEIS for the Ivanpah Energy Center

☒ Yes ☐ No Send more information on this project as it becomes available.

CLEARINGHOUSE NOTES:

Enclosed, for your review and comment, is a copy of the above mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.

Please submit your comments no later than **January 6, 2003**. Use the space below for short comments. If significant comments are provided, please use agency letterhead and include the Nevada SAI number and comment due date for our reference. Questions? Heather Elliott, 684-0209.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

- ☐ No comment on this project
☒ Proposal supported as written
☐ Additional information below
- ☐ Conference desired (See below)
☐ Conditional support (See below)
☐ Disapproval (Explain below)

AGENCY COMMENTS:

RECEIVED
JAN 03 2003
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE COMPTROLLER
BUDGET AND PLANNING DIVISION

RECEIVED
JAN 10 7 30 AM '03

Rebecca Palmer
Signature

Historic Preservation
Agency

1/2/03
Date

S1 Additional information will be sent to the state Historic Preservation Office, when it becomes available.

COMMENTS

RESPONSES

S2 –Nevada Department of
Environmental Protection
Page 3 of 4

NEVADA STATE CLEARINGHOUSE

Department of Administration
Budget and Planning Division
209 East Musser Street., Room 200
Carson City, Nevada 89701-4298
(775) 684-0209
Fax (775) 684-0260

RECEIVED
JAN 10 7 30 AM '02

DATE: November 19, 2002

Governor's Office	Legislative Counsel Bureau	Conservation-Natural Resources
Agency for Nuclear Projects	Information Technology	Director's Office
Energy	Emp. Training & Rehab Research Div.	State Lands
Agriculture	PUC	Environmental Protection
Business & Industry	Transportation	Forestry
Minerals	UNR Bureau of Mines	Wildlife
Economic Development	UNR Library	Region 1
Tourism	UNLV Library	Region 2
Fire Marshal	Historic Preservation	Region 3
Human Resources	Emergency Management	Conservation Districts
Aging Services	Office of the Attorney General	State Parks
Health Division	Washington Office	Water Resources
Indian Commission	Nevada Assoc. of Counties	Natural Heritage
Colorado River Commission	Nevada League of Cities	Wild Horse Commission

Nevada SAI # E2003-051
Project: DEIS for the Ivanpah Energy Center

☒ Yes ☐ No Send more information on this project as it becomes available.

CLEARINGHOUSE NOTES:

Enclosed, for your review and comment, is a copy of the above mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.

Please submit your comments no later than January 6, 2003. Use the space below for short comments. If significant comments are provided, please use agency letterhead and include the Nevada SAI number and comment due date for our reference. Questions? Heather Elliott, 684-0209.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

<input type="checkbox"/> No comment on this project	<input type="checkbox"/> Conference desired (See below)
<input type="checkbox"/> Proposal supported as written	<input type="checkbox"/> Conditional support (See below)
<input checked="" type="checkbox"/> Additional information below	<input type="checkbox"/> Disapproval (Explain below)

AGENCY COMMENTS:

The applicant will need a water pollution control reuse permit for groundwater in regards to the effluent reuse and storage ponds. Stormwater permits will also be required. The applicant will need these permits from the Division of Environmental Protection's Bureau of Water Pollution Control.

RECEIVED

NOV 19 2002

ENVIRONMENTAL PROTECTION

RECEIVED

DEC 05 2002

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

Signature: [Signature]
e:\hland\clearinghouse.doc

Agency: NDEP

Date: 12/5/02

S2 Diamond Generating has filed an application with the State Engineer for the use of graywater from SNCC. A water pollution control reuse permit will be required from the Nevada Department of Environmental Protection. All water use/reuse permits will be in place prior to issuance of BLM right-of-way grants. Stormwater permits will be prepared for the proposed plant site, access roads, the water treatment plant, and transmission lines prior to construction. A stormwater plan also will be required for the proposed plant site. All permits and plans will be addressed as part of the Construction, Operations, and Maintenance (COM) Plan.

S2



COMMENTS

RESPONSES

**S3 – Nevada Department of
Water Resource
Page 4 of 4**

NEVADA STATE CLEARINGHOUSE
Department of Administration
Budget and Planning Division
209 East Musser Street., Room 200
Carson City, Nevada 89701-4298
(775) 684-0209
Fax (775) 684-0260

DATE: November 19, 2002

RECEIVED
JAN 10 7 30 AM '02

RECEIVED
DEC 20 2002
DEPARTMENT OF ADMINISTRATION
BUDGET AND PLANNING DIVISION

Governor's Office	Legislative Counsel Bureau	Conservation Natural Resources
Agency for Nuclear Planning	Information Technology	Director's Office
Energy	Engr. Training & Rehab Research Div.	State Lands
Agriculture	PUC	Environmental Protection
Business & Industry	Transportation	Forestry
Minerals	UNR Bureau of Mines	Wildlife
Economic Development	UNR Library	Region 1
Tourism	UNLV Library	Region 2
Fire Marshal	Historic Preservation	Region 3
Human Resources	Emergency Management	Conservation Districts
Aging Services	Office of the Attorney General	State Parks
Health Division	Washington Office	Water Resources
Indian Commission	Nevada Assoc. of Counties	Natural Heritage
Colorado River Commission	Nevada League of Cities	Wild Horse Commission

Nevada SAI # E2003-052
Project: DEIS for the Ivanpah Energy Center

☐ Yes ☐ No Send more information on this project as it becomes available.

CLEARINGHOUSE NOTES:
Enclosed, for your review and comment, is a copy of the above mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.

Please submit your comments no later than January 6, 2003. Use the space below for short comments. If significant comments are provided, please use agency letterhead and include the Nevada SAI number and comment due date for our reference. Questions? Heather Elliott, 684-0209.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

<input type="checkbox"/> No comment on this project	<input type="checkbox"/> Conference desired (See below)
<input type="checkbox"/> Proposal supported as written	<input type="checkbox"/> Conditional support (See below)
<input type="checkbox"/> Additional information below	<input type="checkbox"/> Disapproval (Explain below)

AGENCY COMMENTS:

Any water used on the described project for construction, dust control, and operation should be provided by an established utility or under permit issued by the State Engineer's Office. All waters of the State belong to the public and may be appropriated for beneficial use to the provisions (NRS) Chapters 533 and 534 of the Nevada Revised Statutes and not otherwise. Water may be available from the Las Vegas Valley Water District. Treated effluent is considered water as referred to in NRS Chapter 533, and is subject to appropriation for beneficial use under the primary-secondary permit procedure described in NRS 533, specifically NRS § 533.440. If artesian water is encountered in any well or borehole it shall be controlled as required by NRS § 534.060(3). Diamond Generating Corporation has made seven applications for water rights in the area of this project. All seven have been protested. The State Engineer cannot predetermine the approval or use of any application.

Carl A. Barrick
Signature CARL BARRICK Agency WATER RESOURCES Date 12-18-02

S3

Water used for the project for construction, dust control, and operation will be provided through existing permits with the Nevada Department of Corrections and Las Vegas Valley Water District.

The project proponent has proposed the use of gray water from the Southern Nevada Correctional Center (SNCC) as the primary water source for the Ivanpah Energy Center. Water from an existing well that is owned and operated by Las Vegas Valley Water District (LVVWD) was proposed as a secondary water source, should the primary water supply source be curtailed or interrupted.

Diamond Generating has filed an application with the State Engineer for the use of effluent from the Southern Nevada Correctional Center (SNCC). The SNCC has filed a similar application to divert graywater discharge to Diamond Generating.

To date, the BLM has not received confirmation from the project proponent that agreements have been reached with the SNCC, LVVWD, or the State Engineer that either primary source or secondary source waters will be made available for the Ivanpah Energy Center. Should agreements regarding water sources not be available, and become other than those stated in the DEIS, a Supplemental EIS would be required as to fulfill the requirements of NEPA and the BLM would not issue any Notice to Proceed until all water sources, treatment, and conveyance requirements are met.

S3